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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,329	07/10/2003	David Turner Monk	20711-0032-U1	2818
26587	7590	08/09/2006	EXAMINER	
MCNEES, WALLACE & NURICK LLC 100 PINE STREET P.O. BOX 1166 HARRISBURG, PA 17108-1166			BELT, SAMUEL E	
			ART UNIT	PAPER NUMBER
			3746	

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/617,329	MONK ET AL.	
	Examiner	Art Unit	
	Samuel E. Belt	3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 3-14 and 17-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Restriction election

The Office acknowledges the receipt of Applicant's restriction election, filed 06/29/2006. Applicant elects species 1, claims 1-4 & 15-18, with traverse, stating: 1.) A restriction can only be given when there are two or more independent and distinct inventions in the claims; 2.) Applicant cannot identify any authority that permits an Examiner to restrict an application based on what is illustrated in the drawings of the application; 3.) That there is no undue burden on the Examiner by examining all of the claims corresponding to Figures 1-3; 4.) The Examiner has provided no reasons as to how or why the Figures show independent and distinct inventions.

Applicant's traversal is unpersuasive for the following reasons: First, not all claims read on the elected species is the applicant's recognition that there are multiple inventions covered by the claims. Second, the restriction is based on the individual species and each species is separately illustrated in the drawings. The restriction between different species is specifically provided for in MPEP 809.02(a) and the governing authority is 37 CFR 1.146 and 37 CFR 1.141. Third, the examiner regards the sending of a restriction requirement as an implicit declaration that the examiner regards searching and examination of the entire application to constitute a serious burden. Only the examiner can properly determine what constitutes a serious burden based on the differences between the claimed species and the search and examination required. Finally, the Examiner's interpretation in regards to why the figures illustrate independent and distinct inventions was shown in the previous action:

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Species 1: Figure 1 illustrates a mechanical linkage being a connecting rod type mechanism.

Species 2: Figure 2 illustrates a mechanical linkage being a gear type mechanism.

Species 3: Figure 3 illustrates a mechanical linkage being a track type mechanism.

The Examiner is interpreting this according to MPEP 802.01, and each one of the mechanical linkages is a distinct concept that can be classified into different classes. (While a search of the prior art for one group may overlap with that of another group, they are not co-extensive of each other and thus would represent undue burden on Office resources.)

It is also noted that applicant's election with traverse of species 1 will not include claims 3-4 or 17-18 because neither the cam mechanism nor wobble plate mechanism is drawn to species 1 or shown in Figure 1. Claims 1-28 are pending. Claims 3-14 & 17-28 are nonelected. Claims 1-2 & 15-16 are examined in the instant application. This restriction is made FINAL.

(Note: Figure 1 only shows a connecting rod, it does not include a cam or wobble mechanism (specification paragraph [0015]).

End Note)

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1-2 and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Massie (U.S. Patent 5,409,356).

Massie discloses reciprocating compressor (column 1, lines 8+) comprising: a linear motor (Figure 1, item 10); at least one piston and cylinder arrangement (Figure 1, item 17), the piston and cylinder arrangement comprising a cylinder, a piston configured and disposed to travel in the cylinder and a piston rod connected to the piston; and a mechanism (Figure 1, item 12) operatively connecting the linear motor to the at least one piston and cylinder arrangement to move the piston in the cylinder upon operation of the linear motor, the mechanism having a mechanical configuration to limit overtravel and undertravel of the piston in the cylinder (See note 1); wherein the mechanism comprises a connecting rod (not labeled; however clearly seen in Figure 1) and eccentric (See note 2).

(Note:

1.) Examiner is interpreting "a mechanical configuration between a motor and a piston to limit overtravel and undertravel of the piston in the cylinder", as being any mechanical linkage that is used to attach the motor to the piston

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2.) Eccentric is being interpreted as being the connector between 14 and 12 of Figure 1.

End Note)

Claim 1-2 and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Poliansky (U.S. Patent 2,732,124).

Poliansky discloses reciprocating compressor comprising: a linear motor (column 4, lines 1+) at least one piston (Figure 2, item 8) and cylinder arrangement (Figure 1, item 2), the piston and cylinder arrangement comprising a cylinder, a piston configured and disposed to travel in the cylinder and a piston rod connected to the piston; and a mechanism (Figure 1, item 18) operatively connecting the linear motor to the at least one piston and cylinder arrangement to move the piston in the cylinder upon operation of the linear motor, the mechanism having a mechanical configuration to limit overtravel and undertravel of the piston in the cylinder; wherein the mechanism comprises a connecting rod (Figure 1, item 11) and eccentric (see note).

(Note:

1.) Examiner is interpreting "a mechanical configuration between a motor and a piston to limit overtravel and undertravel of the piston in the cylinder", as being any mechanical linkage that is used to attach the motor to the piston

2.) Eccentric is being interpreted as being the connector between 18 and the base of Figure 1.

End Note)

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. 5,334,001 to Williams – teach the general nature of the art.

U.S. Pat. 3,162,130 to Glisson – teaches the general nature of the art.

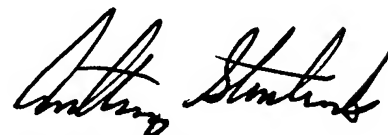
U.S. Pat. 4,009,971 to Khron et al.– teaches the general nature of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel E. Belt whose telephone number is (571) 272-7820. The examiner can normally be reached on M-F, 8 - 4:30EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Thorpe can be reached on (571) 272-4444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


SEB


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PRIMARY EXAMINER